

ONE HUNDRED NINETEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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The Honorable Donald J. Trump
President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Trump:

Last month, a federal judge in Rhode Island admonished several senior members of your Administration for failing to comply with a “clear and unambiguous” court order.¹ In the wake of that order, some members of your Administration decided to attempt to undermine the authority of the courts, but, much to your credit, you committed publicly to “always abide by the courts.”² In order to ensure that members of your Administration honor your own commitment to abide by the rule of law, please remind them of the criminal and civil penalties they may personally face if they fail to comply with court orders.

In the short time you have been in office, you have taken several illegal and unconstitutional actions to freeze congressionally appropriated funds,³ hobble the workforce of congressionally established agencies,⁴ remove the heads of federal agencies,⁵ and access sensitive government data systems that contain the personally identifiable information (PII) of federal

¹ Order at 3, *State of New York v. Trump*, No. 25-cv-39-JJM-PAS (D.R.I. Feb. 10, 2025), https://storage.courtlistener.com/recap/gov.uscourts.ri.58912/gov.uscourts.ri.58912.96.0_5.pdf.

² Charlie Savage, *Courts Start to Impede Momentum of Trump’s Effort to Dismantle Government*, N.Y. TIMES (Feb. 13, 2025), <https://www.nytimes.com/2025/02/13/us/trump-courts-lawsuits-judges.html>.

³ Matthew J. Vaeth, Acting Director, Office of Management and Budget, *Memorandum on Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs* (Jan. 27, 2025).

⁴ Jennifer Hansler, Alex Marquardt & Lex Harvey, *Elon Musk said Donald Trump agreed USAID needs to be ‘shut down’*, CNN (Feb. 3, 2025), <https://www.cnn.com/2025/02/02/politics/usaaid-officials-leave-musk-doge/index.html>; Ellen Knickmeyer, *Trump administration plans to slash all but a fraction of USAID jobs, officials say*, AP (Feb. 6, 2025), <https://apnews.com/article/trump-usaid-musk-doge-7ec0a2b4032d4782d41c00164003b5de>; Ivan Pereira, *Here are all the agencies that Elon Musk and DOGE have been trying to dismantle so far*, ABC NEWS (Feb. 8, 2025), <https://abcnews.go.com/Politics/elon-musks-government-dismantling-fight-stop/story?id=118576033>.

⁵ Charlie Savage, *Fired Inspectors General Raise Alarms as Trump Administration Moves to Finalize Purge*, N.Y. TIMES (Jan. 27, 2025), <https://www.nytimes.com/2025/01/27/us/politics/trump-inspectors-general-fired.html>; Julian Mark, Lauren Kaori Gurley & Lisa Rein, *Trump moves to fire members of EEOC and NLRB, breaking with precedent*, WASH. POST (Jan. 28, 2025), <https://www.washingtonpost.com/business/2025/01/28/trump-fire-eoc-nlr-board-members/>.

employees and potentially other American citizens.⁶ Americans have responded to these lawless actions, filing more than 100 lawsuits, as individuals, employee unions, associations, and state governments. As a result of these lawsuits, federal judges around the country—appointed by Democratic and Republican Presidents, including you in your first Administration—have issued orders in more than 40 cases to block or significantly circumscribe the actions of your Administration that violate federal law.⁷

In one of these lawsuits, 22 states and the District of Columbia sued in response to your efforts to freeze congressionally appropriated funds, including money that supported federal infrastructure, disaster relief, and state health systems, among other programs. The U.S. District Court Judge in this matter, Judge John J. McConnell Jr., issued a “clear and unambiguous” temporary restraining order prohibiting “all categorical pauses or freezes in obligations or disbursements based on the OMB Directive or based on the President’s 2025 Executive Orders.”⁸

Yet, less than two weeks later, your Administration was hauled back to court after the states proved that, even in the face of this order, members of your Administration were continuing “to improperly freeze federal funds and refused to resume disbursement of appropriated federal funds.”⁹ Just a couple of weeks later, in a different matter related to your Administration’s unlawful freeze of foreign aid, a federal judge admonished the Department of Justice for being unable to tell the court “whether any funds ... covered by the court’s order are unfrozen.”¹⁰

In the wake of these decisions, some members of your Administration decided to use their own bully pulpits to capsize the reality of the situation and attempt to further undermine the courts. White House Press Secretary Karoline Leavitt told reporters “[t]he real constitutional crisis is taking place within our judicial branch,” claiming absurdly that the recent rulings are “an abuse of the rule of law and an attempt to thwart the will of the people.”¹¹ Vice President Vance wrote

⁶ Andrew Duehren, Maggie Haberman, Theodore Schleifer & Alan Rappoport, *Elon Musk’s Team Now Has Access to Treasury’s Payments System*, N.Y. TIMES (Feb. 1, 2025), <https://www.nytimes.com/2025/02/01/us/politics/elon-musk-doge-federal-payments-system.html>; Isaac Stanley-Becker et al., *Musk’s DOGE agents access sensitive personnel data, alarming security officials*, WASH. POST (Feb. 6, 2025), <https://www.washingtonpost.com/national-security/2025/02/06/elon-musk-doge-access-personnel-data-opm-security/>; Gaby Del Valle, *Treasury Department sued over DOGE takeover*, THE VERGE (Feb. 3, 2025), <https://www.theverge.com/policy/605614/treasury-department-sued-over-doge-takeover>.

⁷ Daniel Barnes, *D.C. federal judge temporarily blocks Trump plan to pause federal aid spending*, NBC NEWS (Jan. 28, 2025), <https://www.nbcnews.com/politics/donald-trump/dc-federal-judge-temporarily-blocks-trump-plan-pause-federal-aid-spend-rcna189706>; Daniel Barnes and Dareh Gregorian, *Second judge blocks Trump’s federal aid funding freeze*, NBC NEWS (Jan. 31, 2025), <https://www.nbcnews.com/politics/white-house/second-judge-blocks-trump-federal-aid-funding-freeze-rcna190249>; Shayna Jacobs, *Federal judge blocks Musk’s DOGE from access to Treasury Department material*, WASH. POST (Feb. 8, 2025), <https://www.washingtonpost.com/national-security/2025/02/07/trump-musk-government-efficiency-attorneys-general-lawsuit/>.

⁸ Order at 3, *State of New York v. Trump*, No. 25-cv-39-JJM-PAS (D.R.I. Feb. 10, 2025), https://storage.courtlistener.com/recap/gov.uscourts.rid.58912/gov.uscourts.rid.58912.96.0_5.pdf.

⁹ *Id.*

¹⁰ Alex Woodward, *Trump loses in court three times – on USAID, refugees and frozen funds – within 90 minutes*, THE INDEPENDENT (Feb. 26, 2025), <https://www.independent.co.uk/news/world/americas/us-politics/trump-court-losses-usaid-refugee-ban-b2704718.html>.

¹¹ Sarah Ellison and Naftali Bendavid, *White House attacks judges as Trump, Musk flout checks and balances*, WASH. POST (Feb. 12, 2025), <https://www.washingtonpost.com/politics/2025/02/12/trump-musk-constitutional-separation-powers/>.

comments implying that the judges' orders are illegal and should be ignored.¹² Special Government Employee Elon Musk took to his social media company, X, to call for "an immediate wave of judicial impeachments"¹³ and, even worse, amplified posts drawing attention to pictures of Judge McConnell's daughter.¹⁴ So far, House Republicans have introduced four impeachment resolutions related to three judges who ruled against the Administration.¹⁵

To your credit, you indicated that your Administration would obey the courts, stating "I always abide by the courts and then I'll have to appeal it."¹⁶ It may therefore behoove you to remind members of your Administration that violating court orders personally exposes them to potential criminal and civil penalties.

Federal judges do not need the assistance of the executive branch to impose civil or criminal penalties for violations of a court order.¹⁷ The Supreme Court has unequivocally stated that:

[T]he power to punish for contempts is inherent in all courts, has been many times decided and may be regarded as settled law. It is essential to the administration of justice. The courts of the United States, when called into existence and vested with jurisdiction over any subject, at once became possessed of the power.¹⁸

Through civil or criminal contempt proceedings, judges can impose monetary fines on government officials who violate court orders and can ensure that the fines are to be paid by the individual government official, rather than allowing such an individual to be indemnified by his or her employing federal agency.¹⁹ Judges can even impose terms of imprisonment or confinement.²⁰ In fact, in a 1997 brief to the D.C. Circuit, the U.S. Attorney's Office in D.C. acknowledged that imprisonment of agency officials was a viable option to ensure executive branch compliance with the law.²¹ Judges' inherent authority includes the power to appoint a private attorney to conduct the prosecution of a criminal contempt proceeding should the

¹² Vice President Vance wrote: "If a judge tried to tell a general how to conduct a military operation, that would be illegal. If a judge tried to command the attorney general in how to use her discretion as a prosecutor, that's also illegal. Judges aren't allowed to control the executive's legitimate power." JD Vance (@JDVance), X (Feb. 9, 2025, 10:13 AM), <https://x.com/JDVance/status/1888607143030391287>.

¹³ Elon Musk (@elonmusk), X (Feb. 12, 2025, 10:28 AM), <https://x.com/elonmusk/status/1889698199335575948>.

¹⁴ Elon Musk (@elonmusk), X (Feb. 11, 2025, 12:44 AM), <https://x.com/elonmusk/status/1889188650878972034>.

¹⁵ Jacob Knutson, *Musk, Trump Allies Use Impeachment Threats to Intimidate Federal Judges—What You Need To Know*, DEMOCRACY DOCKET (Mar. 4, 2025), <https://www.democracydocket.com/analysis/elon-musk-house-republicans-impeaching-judges-intimidation/>.

¹⁶ Brett Samuels, *Trump says he'll abide by court orders that block parts of his agenda*, THE HILL (Feb. 11, 2025), <https://thehill.com/homenews/administration/5139380-trump-agenda-court-orders/>.

¹⁷ Additionally, the President may be unable to pardon a federal employee if found in contempt pursuant to the court's inherent authority because such an offense may not qualify as an "offense against the United States." U.S. Const. art. II, § 2, cl. 1. Furthermore, the Pardon Clause does not apply to civil sanctions.

¹⁸ *Michaelson v. United States ex rel. Chicago, St. P., M., & O. R. Co.*, 266 U.S. 42, 65-66 (1924).

¹⁹ See Nicholas R. Parrillo, *The Endgame of Administrative Law: Governmental Disobedience and the Judicial Contempt Power*, 131 HARV. L. REV. 685, 739-763 (2018).

²⁰ *Id.*

²¹ *Id.* at 742-43; Appellants' Opening Brief at 15, *United States v. Waksberg*, 112 F.3d 1225 (D.C. Cir. 1997) (No. 95-5165).

government decline,²² and is reflected in Rule 42 of the *Federal Rules of Criminal Procedure*, which lays out the procedure for criminal contempt.²³ Rule 42(a)(2) states that:

[T]he court must request that the contempt be prosecuted by an attorney for the government, unless the interest of justice requires the appointment of another attorney. If the government declines the request, the court must appoint another attorney to prosecute the contempt.²⁴

This is not an untested hypothetical. As recently as 2019, a district court has followed this procedure to appoint a private attorney who then successfully prosecuted a criminal contempt proceeding after the U.S. Attorney for the Southern District of New York declined to do so.²⁵ Moreover, there may be collateral consequences for refusing to obey a court order besides contempt, particularly for government attorneys who may face disciplinary proceedings and the suspension or revocation of their license to practice law.

Mr. President, I thank you for your assistance in ensuring that members of your Administration join you in “always abid[ing] by the courts.” They need to know the very risky consequences of not doing so.

Sincerely,


Jamie Raskin
Ranking Member

cc: The Honorable Jim Jordan, Chairman

²² See *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 794 (1987) (“[It] is long settled that courts possess inherent authority to initiate contempt proceedings for disobedience to their orders, authority which necessarily encompasses the ability to appoint a private attorney to prosecute the contempt.”).

²³ Fed. R. Crim. P. 42.

²⁴ *Id.*

²⁵ See *United States v. Donziger*, 38 F.4th 290 (2d Cir. 2022). The defendant in that case appealed his contempt conviction to the Second Circuit on the grounds that the appointment of a special prosecutor violated the Appointments Clause, U.S. Const. art. II, § 2, cl. 2. The Second Circuit upheld the defendant’s conviction, and the Supreme Court later denied the defendant’s petition for a writ of certiorari. *Donziger v. United States*, 143 S. Ct. 868 (2023).